

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DAVID GURNSEY,

Petitioner,

No. 11-15038

vs.

Hon. Gerald E. Rosen

JOHN PRELESNIK,

Respondent.

_____ /

ORDER DENYING PETITIONER'S MOTION TO
ALTER OR AMEND JUDGMENT

At a session of said Court, held in
the U.S. Courthouse, Detroit, Michigan
on July 13, 2015

PRESENT: Honorable Gerald E. Rosen
United States District Chief Judge

On October 7, 2014, the Court entered an Order concluding that Petitioner's Motion for Relief from Judgment, filed on September 2, 2014, constituted a second or successive habeas corpus petition, and accordingly, transferred Petitioner's Motion for Relief from Judgment to the Sixth Circuit Court of Appeals, pursuant to 28 U.S.C. § 2244(b)(3)(A). Petitioner thereafter filed the instant "Motion to Alter or Amend Judgment" in which he sought reconsideration and reversal of the Order transferring his Motion for Relief from Judgment to the Court of Appeals contending that the Motion for Relief from Judgment was not a second or successive habeas petition.

On June 23, 2015, the Sixth Circuit entered an Order in which it agreed with this

Court and concluded that Petitioner's Motion for Relief from Judgment was, in fact, a second or successive habeas corpus petition. *See In re David Gurnsey*, Ct. of App. No. 14-2290. And, finding that Petitioner failed to meet the standard for authorizing such a second or successive petition, the appellate court denied authorization for this Court to consider the petition. *Id.*

As the Sixth Circuit has determined that this Court was correct in its determination that Petitioner's Motion for Relief from Judgment was a second or successive habeas corpus petition, and as this Court is inferior to the Circuit Court of Appeals, it has no jurisdiction to overrule or deviate from a decision of that court. Therefore,

IT IS HEREBY ORDERED that Petitioner's Motion to Alter or Amend Judgment [Dkt. # 12] is DENIED.

s/Gerald E. Rosen
Chief Judge, United States District Court

Dated: July 13, 2015

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on July 13, 2015, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5135